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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/558,813   | 11/15/2006  | Marlene Moerth       | 083042-000000US     | 6928             |
| 20350 7590 03/04/2008<br>TOWNSEND AND TOWNSEND AND CREW, LLP<br>TWO EMBARCADERO CENTER<br>EIGHTH FLOOR<br>SAN FRANCISCO, CA 94111-3834 |             |                      |                     |                  |
| EXAMINER   |             |                      |                     |                  |
| QIN, JIANCHUN  |             |                      |                     |                  |
| ART UNIT   |             | PAPER NUMBER         |                     |                  |
| 2837   |             |                      |                     |                  |
| MAIL DATE  |             | DELIVERY MODE        |                     |                  |
| 03/04/2008   |             | PAPER                |                     |                  |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/558,813

**Applicant(s)**

MOERTH, MARLENE

**Examiner**

Jianchun Qin

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 28 November 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-40 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO/SE/US)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Election/Restrictions*

1. This application contains claims directed to the following patentably distinct species of the claimed invention:

Species I. A fine tuner made of titanium for stringed instruments, best illustrated by Fig. 1.

Species II. String balls made of titanium for stringed instruments, best illustrated by Figs. 2 and 3.

Species III. Tailpiece fastener and fixing parts made of titanium for stringed instruments, best illustrated by Figs. 4a, 4b, 4c, and 19.

Species IV. A wolf eliminator made of titanium for stringed instruments, best illustrated by Figs. 5a and 5b.

Species V. A wooden peg comprising a shaft made of titanium for stringed instruments, best illustrated by Figs. 6 and 13.

Species VI. A tuning peg made of titanium for keyboard instruments, best illustrated by Figs. 7a and 7b.

Species VII. A mouthpiece made of titanium for brass instruments, best illustrated by Fig. 8.

Species VIII. A fret made of titanium for plucked instruments, best illustrated by Fig. 9.

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Species IX. A bell mouth or sound piece made of titanium for brass instruments, best illustrated by Fig. 10.

Species X. A chin holder screw made of titanium for string instruments, best illustrated by Fig. 11.

Species XI. A plectrum made of titanium for string instruments, best illustrated by Fig. 12.

Species XII. A trombone slide made of titanium, best illustrated by Fig. 14.

Species XIII. A vibraphone or metallophone having laminae made of titanium, best illustrated by Fig. 15.

Species XIV. Bridges made of titanium for string instruments, best illustrated by Figs. 16, 41 and 42.

Species XV. Mutes made of titanium for string instruments, best illustrated by Figs. 17a and 17b.

Species XVI. A face and a string bow screw made of titanium for string bows, best illustrated by Fig. 18 and 24.

Species XVII. A thumb or finger ring made of titanium for plucked instruments, best illustrated by Fig. 20.

Species XVIII. A bottleneck made of titanium for plucked instruments, best illustrated by Fig. 21.

Species XIX. A frog comprising buttons made of titanium for string bows, best illustrated by Fig. 22.

Species XX. A bell made of titanium, best illustrated by Fig. 23.

- |                 |   |
|-----------------|---|
| Species XXI.    | A bassoon tube made of titanium, best illustrated by Fig. 25.                           |
| Species XXII.   | A tuning fork made of titanium, best illustrated by Fig. 26.                            |
| Species XXIII.  | A tuning pipe made of titanium, best illustrated by Fig. 27.                            |
| Species XXIV.   | An endpin made of titanium for cello and contrabass, best illustrated by Figs. 28-30.   |
| Species XXV.    | A button made of titanium for a violin and a viola, best illustrated by Figs. 31-32.    |
| Species XXVI.   | Valves made of titanium for brass instruments, best illustrated by Figs. 33-35.         |
| Species XXVII.  | Saddles made of titanium for stringed instruments, best illustrated by Figs. 39 and 40. |
| Species XXVIII. | Tailpiece made of titanium for stringed instruments, best illustrated by Figs. 36-38.   |
2. The species are independent or distinct because claims to the different species recite the mutually exclusive characteristics of such species. In addition, these species are not obvious variants of each other based on the current record. Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claim 1 is considered to be generic. Applicant must identify the claims he deems to belong to the elected species.
3. There is an examination and search burden for these patentably distinct species due to their mutually exclusive characteristics. The species require a different field of

search (e.g., searching different classes/subclasses or electronic resources, or employing different search queries); and/or the prior art applicable to one species would not likely be applicable to another species; and/or the species are likely to raise different non-prior art issues under 35 U.S.C. 101 and/or 35 U.S.C. 112, first paragraph.

4. Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species to be examined even though the requirement may be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected species, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election. The election of the species may be made with or without traverse. To preserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the election of species requirement, the election shall be treated as an election without traverse.

5. Traversal must be presented at the time of election in order to be considered timely. Failure to timely traverse the requirement will result in the loss of right to petition under 37 CFR 1.144. If claims are added after the election, applicant must indicate which of these claims are readable on the elected species. Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the species unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other species.

6. Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR 1.141.
7. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).
8. In accordance with MPEP 812.01, as revised July 1996, because of the complexity of issues involved in the following election of species, no telephone call was made to the Applicant to receive an election.

#### ***Contact Information***

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jianchun Qin whose telephone number is (571) 272-5981. The examiner can normally be reached on 8am - 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lincoln Donovan can be reached on (571) 272-1988. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for

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published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J. Q./

Examiner, Art Unit 2837

/Lincoln Donovan/

Supervisory Patent Examiner, Art Unit 2837



**Application Number****Application/Control No.**

10/558,813

**Applicant(s)/Patent under  
Reexamination**

MOERTH, MARLENE

**Examiner**

Jianchun Qin

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2837